

**STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
LAHONTAN REGION**

In the matter of Ultramar, Inc.:)	COMPLAINT NO. 6-98-62
Violation of Cleanup and Abatement Order No. 6-89-050A)	FOR ADMINISTRATIVE
)	CIVIL LIABILITY

ISSUED TO ULTRAMAR, INC., SOUTH LAKE TAHOE, EL DORADO COUNTY, APN 031-041-021, YOU ARE HEREBY GIVEN NOTICE THAT:

1. You are charged with a violation of provisions of law, and an order of the Regional Water Quality Control Board, Lahontan Region (Regional Board), for which the Regional Board may impose administrative civil liability pursuant to the California Water Code (CWC).
2. Unless waived, a hearing on this matter will be held before the Regional Board within 60 days following the issuance of this Complaint. You, or your representatives will have an opportunity to address and contest the allegations in this Complaint and the imposition of civil liability by the Regional Board. The hearing is scheduled for October 1 and 2, 1998 in South Lake Tahoe, California. An agenda showing the time set for the hearing will be mailed to you not less than ten days before the hearing date.
3. At the hearing, the Regional Board will consider whether to affirm, reject, or modify the proposed civil liability, or whether to refer the matter to the Attorney General for recovery of judicial civil liability.

ALLEGATIONS

4. **Ultramar, Inc.**, violated the following provisions of law and an order of the Regional Board:

Cleanup and Abatement Order No. 6-89-050A

The Executive Officer issued Amended Cleanup and Abatement Order No. 6-89-050A to Ultramar, Inc., on May 18, 1998. Amended Cleanup and Abatement Order No. 6-89-050A contains the following Order:

*“4.c. Beginning **July 10, 1998**, and every two months thereafter, submit monitoring reports. The report shall contain progress on the cleanup status which demonstrates continued compliance with cleanup actions required by the Regional Board. The reports shall contain summaries of the on-going bi-weekly ground water monitoring data to indicate the concentrations of MTBE, other gasoline product oxygenates, BTXE, and*

*TPH-gas, in ground water. All data shall be cumulatively tabulated. The report shall contain a list of instances when the cleanup system is inoperative for 12 hours or more and provide an explanation. **The Regional Board shall be notified within one working day after the cleanup system is observed to be inoperative.*** [emphasis added]

Ultramar, Inc., violated Order No. 4.c. by failing to notify the Regional Board until August 12, 1998 that the cleanup system was inoperative from Friday, July 31, 1998 until Wednesday, August 5, 1998 at Ultramar's Beacon Gas Station, located at 2304 Lake Tahoe Boulevard, South Lake Tahoe. The above Order required that Ultramar notify the Regional Board by Monday, August 4, 1998. Ultramar, Inc., violated Order 4.c. of Amended Cleanup and Abatement Order No. 6-89-050A for a period of nine (9) days.

5. The following additional facts are the basis for the violations of Amended Cleanup and Abatement Order 6-89-050A. On August 12, 1998, Board staff asked Ultramar's consultant, Delta Environmental, if the cleanup system had not been operating when groundwater samples were collected and groundwater elevations were measured on August 5, 1998. The groundwater elevation data Delta Environmental provided to the Board staff indicated the system was not capturing the petroleum product pollution, and petroleum products were moving off site. Mr. Richard Munsch of Delta Environmental indicated at that time that the system had been inoperative during the above-stated period to change the treatment system's carbon material.

PROPOSED CIVIL LIABILITY

6. For the failure to comply with the reporting requirement in Amended Cleanup and Abatement Order No. 6-89-050A, the Regional Board may impose administrative civil liability, pursuant to Section 13350(d)(1) of the CWC, when there is a discharge and an order of the Regional Board is violated. Liability shall be imposed not to exceed five thousand dollars (\$5,000), but which shall not be less than five hundred dollars (\$500), for each day in which the violation occurs.
7. In this matter, Regional Board staff determined that the requirements of Amended Cleanup and Abatement Order No. 6-89-050A were violated on the dates August 4, 1998 through August 12, 1998. Therefore, the maximum administrative civil liability pursuant to Section 13350(d)(1) for 9 days of violation is forty-five thousand dollars (\$45,000), and the minimum is four thousand five hundred dollars (\$4,500).
8. Pursuant to Section 13327 of the CWC, the Executive Officer has considered the following factors in recommending the amount of the administrative civil liability:
 - a. *The nature, circumstances, extent, and gravity of the violation or violations;*

This Complaint is for a reporting violation. Based on groundwater elevation data that the Discharger's consultant provided to the Board, Board staff asked the

consultant if the groundwater remediation system had been shut down when the data were collected. At that point, the consultant indicated the system had been shut down to change the carbon adsorption material in the treatment system. The system had been shut down for five days and was not reported for nine days after required to do so and was only reported when directly asked by Board staff. Treatment system shutdown resulted in migration of petroleum product pollution from the site. Failure to report the shutdown to the Board precluded the Board from considering or enacting emergency plume containment measures. However, in this instance the Discharger began operating the remediation system within 5 days and migration of offsite pollution was limited.

- b. *Whether the discharge is susceptible to cleanup and abatement;*

Ground water containing petroleum products that moved off site during the system shutdown are susceptible to cleanup and abatement. The Discharger's existing groundwater remediation system does not capture the entire extent of contaminated groundwater in the area.

- c. *The degree of toxicity of the discharge;*

The ground water at the site contains petroleum products (including benzene) in toxic amounts. The level of MTBE detected in ground water at the Beacon Gas Station site exceeds the State of California Drinking Water Action Level. Offsite concentrations of MTBE also exceed the Action Level.

- d. *The violator's ability to pay;*

Ultramar is a medium-sized petroleum company. Imposition of the maximum amount of civil liability under Section 13350 would not appear to have a significant impact upon its operations.

- e. *The effect on the violator's ability to continue business;*

Imposition of the maximum civil liability will not significantly affect the violator's ability to conduct business.

- f. *Any voluntary cleanup efforts undertaken by the violator;*

No voluntary cleanup efforts have been implemented by the Discharger.

- g. *Any prior history of violations;*

The violator has a history of discharging petroleum products to ground water, violating Section 13350 of the CWC and the Water Quality Objectives of the *Water Quality Control Plan for the Lahontan Region*. The violator was issued Cleanup and Abatement Order No. 6-89-50 on February 23, 1989 for the

unauthorized discharge of petroleum products to the ground waters of the Lake Tahoe Hydrologic Unit. Amended Cleanup and Abatement Order No. 6-89-050A was issued to Ultramar on May 18, 1998 partly in response to a "drive-off" at a gasoline pump that resulted in gasoline being discharged from a broken gas dispenser hose to the ground water for a period of two days. That drive-off was not reported to the Regional Board or the El Dorado County Department of Environmental Management (EDCDEM) by gas station or Ultramar personnel, and nothing was done to stem the flow of dripping gasoline from the hose to the underground infiltration bed at the station. A citizen complaint to the EDCDEM brought the matter to the two agencies' attention.

h. *The degree of culpability;*

Ultramar, Inc., is entirely culpable for failing to notify the Regional Board of the cleanup system shutdown.

i. *Any economic savings for the violator resulting from the violation;*

No significant economic savings resulted from the violation.

j. *Other matters as justice may require.*

The presence of petroleum products from Ultramar's Beacon Gas Station in the ground water threatens to contaminate two of the South Tahoe Public Utility District's (STPUD's) municipal drinking water wells (Helen Avenue Wells Nos. 1 and 2), which are located approximately 300 feet from the station. STPUD has shut down these wells as a precaution to reduce the chance of drawing the contaminants to the wells.

Based on the nature, circumstances, extent, and gravity of the violation, imposition of a civil liability amount less than the maximum is warranted.

9. The Executive Officer of the Regional Board proposes that administrative civil liability be imposed by the Regional Board in the amount of **\$6,000.00**, pursuant to Section 13350(d)(1) of the CWC.

WAIVER OF HEARING

10. You may waive the right to a hearing. If you choose to waive the hearing, please check and sign the waiver and return it prior to the proposed hearing date, together with a cashier's check or money order for the amount of civil liability proposed in paragraph 9 above, to the following address:

California Regional Water Quality Control Board
Lahontan Region
2501 Lake Tahoe Boulevard

ULTRAMAR, INC.
El Dorado County

-5- ADMINISTRATIVE CIVIL LIABILITY
COMPLAINT NO. 6-98-62

South Lake Tahoe, CA 96150

Ordered by: _____ Dated: _____
HAROLD J. SINGER
EXECUTIVE OFFICER